



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 23, 1996

Ms. Tamara Armstrong
Assistant County Attorney
County of Travis
P. O. Box 1748
Austin, Texas 78767

OR96-1915

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101342.

Travis County (the "county") received a request for "any and all files and records" relating to the requestor, two specified individuals, one specified cause number, and related investigation records. In response to the open records request, you have submitted three categories of information that you believe are related to the request.¹ One category consists of information which you have labeled as public, therefore, we understand that you will release this information to the requestor.² However, you assert that the county may withhold most of the other categories of information from required public disclosure based on section 552.108 of the Government Code. Additionally, you contend that portions of the requested information are excepted from required public disclosure based on section 552.101 of the Government Code. You have submitted to this office the information the county seeks to withhold from the requestor. We have considered the exceptions you claim and have reviewed the documents at issue.

¹You also submitted to this office information that is not responsive to the request. A governmental body need not provide information to a requestor which is not responsive to the request.

²You state in your letter to our office that you will release the front page of reports that do not involve arrest or charges, and those reports which do not constitute a compilation of criminal history.

We first address your assertion that section 552.108 of the Government Code excepts *most* of the submitted information from required public disclosure. Section 552.108 excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime,” and “[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution.” Gov’t Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that information normally found on the front page of an offense report is generally considered public.³ *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). We therefore conclude that, except for front page offense report information, section 552.108 of the Government Code excepts the requested records from required public disclosure. Although section 552.108 authorizes you to withhold the requested information, we note that you may choose to release all or part of the information that is not otherwise confidential by law. Gov’t Code § 552.007.

We next address your assertion that section 552.101 of the Government Code excepts some of the submitted information, “not covered by Section 552.108” from required public disclosure. Section 552.101 excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” You have submitted to our office some information which may be classified as criminal history record information (“CHRI”).

You contend that the requested information may include the front pages of offense reports, which you are “classifying as criminal history record information compilations . . . where such reports concern arrests and/or charges.” In *United States Department of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989), the United States Supreme Court concluded that where an individual’s CHRI is compiled or summarized by a governmental entity, the information takes on a character that implicates an individual’s right of privacy in a manner that the same individual records in an uncompiled state do not.⁴ However, the right of privacy is personal to an individual. See generally Attorney General Opinion H-917 (1976); Open Records Decision No. 272 (1981). Furthermore, while the requestor’s CHRI information is not available to the public at large, the requestor has a special right of access to it under section 552.023 of

³The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

⁴We note that an offense report that is the subject of a specific request for information does not constitute CHRI and may not be withheld under section 552.101.

the Government Code. *See also* Open Records Decision No. 481 (1987).⁵ Therefore, any CHRI contained in the submitted records relating to the requestor is not excepted from required public disclosure by a common-law right of privacy. However, if the submitted records at issue contain any CHRI regarding any person other than the requestor, this information is excepted from required public disclosure by a common-law right of privacy. Thus, we conclude that if there are any CHRI pertaining to the other specified individuals, you must withhold the requested information from the requestor, under section 552.101 of the Government Code in conjunction with the common-law right to privacy.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please *contact our office*.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/cbh

Ref.: ID# 101342

Enclosures: Submitted documents

cc: Mr. Gregory A. Kuban
#61129-080
U.S.P. High
Box 7000
Florence, Colorado 81226
(w/o enclosures)

⁵Section 552.023 grants an individual or an individual's representative access to information that is otherwise excepted from required public disclosure based on a law that protects that individual's privacy interests. *See* Open Records Decision No. 587 (1991).